

# **ATTACHMENT A**

**TO PLAINTIFF'S REPLY TO DEFENDANT'S  
OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE  
THE EXPERT REPORT OF STEVEN WOLLACK**

**Deposition Transcript of Steven Wollack  
(excerpts)**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES COMMODITY )  
FUTURES TRADING )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 12-cv-8791 (CM)  
 ) (GWG)  
ERIC MONCADA; BES )  
CAPITAL LLC; and )  
SERDIKA LLC, )  
 )  
Defendants. )

The deposition of STEVEN E. WOLLACK, ESQ.,  
called for examination pursuant to the Rules of  
Civil Procedure for the United States District  
Courts pertaining to the taking of depositions,  
taken before JENNIFER M. DALY, a Certified Shorthand  
Reporter, within and for the County of Cook and  
State of Illinois, at 525 West Monroe Street,  
Suite 1100, Chicago, Illinois, on the 2nd day of  
December, 2013, at the hour of 8:07 o'clock a.m.

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24 LICENSE NO.: 084-004688

I N D E X

WITNESS: STEVEN E. WOLLACK, ESQ.

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1 referred to it in the report as I didn't have the  
2 data for that.

3 Q. And what specific data are you saying  
4 you didn't have access to?

5 A. I believe it was Eric Moncada's trades  
6 on those dates of -- there were, I think, three or  
7 four dates that I didn't -- three dates I didn't  
8 have data of; October 14th, 19th, and 30th of 2009.

9 So, I wasn't able to analyze any of the  
10 trade data from that day.

11 Q. If Mr. Wollack does supplement his  
12 report, we would reserve the right to take a  
13 separate deposition regarding any supplementation.

14 A. Sure.

15 Q. And when you're saying that you didn't  
16 have access to trade data, what -- and it was trade  
17 data regarding Eric Moncada's trades on three of the  
18 dates?

19 A. Correct. And all of his large, you  
20 know, lot orders that were either executed or  
21 cancelled.

22 Q. What data did you have access to when  
23 you prepared your report?

24 A. I had the trades he made on the days

1 necessarily that you generated the daily statements  
2 or the monthly statements from Advantage.

3 Q. Okay.

4 A. When I say, "CFTC data," I was referring  
5 to all data that you had and then you forwarded.  
6 So, that would have included the Advantage Futures  
7 also.

8 Q. Okay. Okay. So, I guess just to wrap  
9 everything in a bow, when you say, "CFTC data," you  
10 are referring to two different sets of data. One  
11 was produced by Advantage Futures, or generated by  
12 Advantage Futures and then produced by the CFTC to  
13 Mr. Moncada?

14 A. Right.

15 Q. The second set of data, which also falls  
16 under the category "CFTC data," is the data that  
17 shows trades by all market participants, including  
18 Mr. Moncada?

19 A. Yes.

20 Q. Okay. You state in your report that you  
21 reviewed a "portion of the CFTC data."

22 What portion of that data did you  
23 review?

24 A. I reviewed -- I concentrated mostly on

1 Mr. Moncada's trades and large lot orders.

2 Q. Did you use the filter function --

3 A. Yes.

4 Q. -- to isolate Mr. Moncada's trades?

5 A. Yes.

6 Q. What days of the CFTC data did you  
7 review?

8 A. They would be the days that I specified  
9 in my report. The eight relevant trade dates that  
10 are in the Complaint. I reviewed all the days  
11 except for three dates: October 14th, 19th, and  
12 30th of 2009.

13 Q. Did you review the entire days' trade  
14 data for those days, for the days that you -- the  
15 eight trade days minus the 14th, 19th and 30th?

16 A. I looked at the days for Moncada's  
17 trades, yes.

18 Q. At the full day?

19 A. Yes.

20 Q. Did you look at trades placed by traders  
21 other than Mr. Moncada?

22 A. No, other than -- I should say just  
23 generally, I just -- you know, I looked at the other  
24 large lot traders just to see what they were and the

1 frequency, but basically, relied on Mr. Moncada's  
2 data.

3 Q. And when you say, "large lot orders,"  
4 are you talking about orders for 200 lots or more?

5 A. Yes.

6 Q. When did you receive these documents or  
7 the CFTC data?

8 A. I don't recall.

9 Q. Would your timesheets --

10 A. They might reflect it.

11 Q. Could you take a moment to review your  
12 timesheet?

13 A. Sure. I would -- looks like around end  
14 of June.

15 Q. And from whom did you receive these  
16 documents?

17 A. Mr. Asche.

18 Q. Did you receive them in electronic  
19 format?

20 A. Yes.

21 Q. And did you get them on a hard drive or  
22 how did you -- how did you physically receive the  
23 electronic documents?

24 A. It was a hard drive that was sent to me.



1 those days?

2 A. I did ask him which trades the CFTC was  
3 specifically looking at, and he, quite honestly,  
4 didn't seem to know.

5 Q. For the eight days charged in the  
6 Complaint, was that your only discussion with  
7 Mr. Moncada about trading on those eight days?

8 A. I believe so.

9 Q. Mr. Wollack, I'd like to ask you a few  
10 questions about your general experience looking at  
11 trading data.

12 Have you ever had any experience doing  
13 statistical analysis of trade data?

14 A. No.

15 Q. Earlier you had mentioned that in the  
16 context of Business Conduct Committee proceedings at  
17 the CME that you had looked at time and sales data.  
18 When you looked at those time and sales data, what  
19 were you looking for?

20 A. We were looking for whether the trades  
21 could have occurred when people said they occurred.

22 Q. Those time and sales data, did those  
23 relate to pit trades?

24 A. Back then, yes.

1           Q.     You said that you didn't see any spikes  
2     of such as a five cent move in 30 seconds to a  
3     minute after the large lot order. Did you do any  
4     analysis of trade data to determine what price  
5     movements did occur following the 710 large lot  
6     orders Moncada placed on the eight days charged in  
7     the Complaint?

8           A.     No, I did not.

9           Q.     Did you --

10          A.     I found -- I did look at Bessembinder's  
11     report, and his data seemed to support my opinion,  
12     although he reached a different conclusion.

13          Q.     By saying that his data supports your  
14     opinion, what do you mean? What data --

15          A.     I think he -- I think somewhere in his  
16     report, if my recollection is correct, he said the  
17     result of these large orders would increase the  
18     bid-ask by one-tenth of one cent, or something,  
19     which is less than the -- a one-quarter tick.

20                 In other words, it didn't move the  
21     market, and he says this is a result, this becomes a  
22     result of excessive market movement. And it just  
23     isn't there. The data's not there. The market  
24     never moved.

1           He makes a statement. I could look at  
2     it in his report, but . . .

3           Q.     Did you conduct any analysis of trade  
4     data for time periods when Moncada was not placing  
5     large lot orders to determine what average price  
6     movement is in the CBOT wheat futures market?

7           A.     No, I just basically looked at the time  
8     and sales and looked to see whether the market  
9     during the day was moving in one-quarter tick  
10    increments in which case it was doing so almost all  
11    the time.

12          Q.     So you just eyeballed the time and  
13    sales?

14          A.     Yeah, I looked down, but I didn't do  
15    a -- any kind of detailed analysis.

16          Q.     Looking back --

17          A.     I did look at time and sales in relation  
18    to some of his large lot orders that were entered  
19    into the market to see whether that had an affect of  
20    having the market run or not, and you know --

21          Q.     By "market run," what do you mean?

22          A.     Puts in an order to buy a large lot at  
23    534 and a quarter, and I looked to see what the next  
24    trades were, and it was 531 and a half, 531 and a

1 quarter, 531 and a half, three-quarters.

2 In other words, there was no -- I didn't  
3 find any evidence that he put in a 500 lot order, a  
4 large order, and the market went from 534 all the  
5 way to 535 just like that.

6 In other words, it would just move up  
7 orderly if it moved up at all. Sometimes it didn't  
8 move up at all. Sometimes it actually came back  
9 down.

10 Q. Did you look to see how often after the  
11 710 times that Moncada put in large lot orders the  
12 price did move and in the same direction of his  
13 order?

14 A. No, I did not look in terms of make a  
15 study of that.

16 Q. A little bit farther down on page 3 at  
17 the end of that first partial paragraph on page 3 of  
18 your report, Exhibit 2, you state, quote, "In fact,  
19 on some occasions, the market went the opposite  
20 direction of his large buy or sell orders."

21 What do you mean by "opposite  
22 direction"?

23 A. Well, the one instance when he was -- I  
24 think it was October -- I forget the date. He was